

REMARKS/ARGUMENTS

The present application has been carefully studied and amended in view of the Office action dated June 9, 2009, and reconsideration of that action is requested in view of the following comments.

Claims 1, 4–9, 11, 26, and 28–35 are pending in the application. Claims 2–4, 10, 12–25, 27, and 36–43 are canceled. Claims 1 and 26 are currently amended. Support for these amendments is found in the specification and in the originally-filed claims.

The Examiner has rejected claims 1 and 26 under 35 U.S.C. § 102(b) as anticipated by Barringer et al. (US 5,891,295). The Examiner contends that the Barringer device is capable of holding a fuel cell membrane. Applicants note, however, that Barringer does not disclose a device that actually holds a fuel cell electrode.

Claims 1 and 26 are amended herein to include the further limitation of mounting an electrode or a component of the device, respectively, over the opening in the thin film. The preambles of claims 1 and 26 limit the claims to a fixture for fabricating thin film devices, such as fuel cell membrane electrodes. Without the respective preambles, the claims have no “life, meaning and vitality” as a fixture for the express purpose of facilitating the fabrication of the described devices. See *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1995). Because Barringer discloses only a means of tensioning flexible sheets, see Abstract, and does not disclose a fixture for handling the combination of an electrode or component and mounting it over an aperture in a thin film, the reference does not anticipate every limitation of either of claims 1 or 26.

Accordingly and in view of the arguments and claim amendments, Applicants respectfully request that the Examiner reconsider and withdraw his rejection of claims 1 and 26 under 35 U.S.C. § 102(b) as anticipated by Barringer.

Claims 4–9, 11, and 28–35 are rejected under 35 U.S.C. § 103(a) as unpatentable over Barringer et al. The Examiner contends that the reference discloses means of attaching a membrane to the frame, and that these “work holders” are within the ordinary skill of the art.

Applicants incorporate herein their positions explained above, wherein the claimed fixture comprises limitations beyond the tensioner for flexible sheets disclosed by Barringer. Because claims 4–9 and 11 depend from claim 1, and claims 28–35 depend from claim 26, the limitations of claims 1 and 26 apply to the claims rejected by the Examiner, that is, Applicants’ fixture would not be rendered obvious because Barringer does not disclose a fixture with which facilitating fabrication of a device, especially a fuel cell membrane electrode assembly, would be obvious.

In view of the above arguments and claim amendments, Applicants claimed fixture is patentably distinct from the Barringer device. Accordingly, Applicants respectfully request that the Examiner withdraw his rejection of claims 4–9, 11, and 28–35 under 35 U.S.C. § 103(a) as unpatentable over Barringer.

Accordingly, in view of the claim changes and the above arguments in support of patentability, it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

A petition for a one-month extension of time was filed for this application on October 9, 2009, together with the appropriate fee. Accordingly, the deadline for responding to the Office action has been extended until October 9, 2009, and this response is therefore timely filed.

Respectfully submitted,

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